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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Attorney Docket 054270/0126

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TECH CENTER 1600/2900

In re patent application

Zhongyi LI

Serial No. 09/508,377

Group Art Unit: 1638

Filed: June 9, 2000

Examiner: David T. Fox

For REGULATION OF GENE EXPRESSION IN PLANTS

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

This is a response to an Office Action, dated March 22, 2002, for which the deadline is extended to July 22, 2002, based on the accompanying petition and payment.

Applicants provisionally elect Group II claims 23-27 and 30-31, drawn to nucleic acid sequences encoding starch branching II enzyme. As to Groups I – IV, applicants elect with traverse because all the claims of these groups prescribe enzymes that, by virtue of their involvement in the starch biosynthetic pathway in cereal plants, constitute a “recognized class of chemical compounds” and, hence, single inventive concept under PCT Rule 13.1. MANUAL OF PATENT EXAMINING PROCEDURE, 8<sup>th</sup> ed., Annex B (“Instructions concerning unity of invention”), at page AI-54. In this regard, the MPEP expressly states that

The fact that the alternatives of a Markush grouping can be differently classified shall not, taken alone, be considered to be justification for a finding of a lack of unity of invention.

*Id.* The unity of the aforementioned class is evident particularly for the provisionally elected claims (starch branching enzyme II) and the Group I claims (starch branching enzyme I), given the structural features common to both enzyme groups. *Id.*

For these reasons, applicants request that the Office examine together the claims of Groups I – IV or, at least, the claims of Groups I and II. Applicants also reserve the right to file a divisional application, directed to subject matter of any non-elected claims. Receipt of the initial Office Action on the merits is awaited.

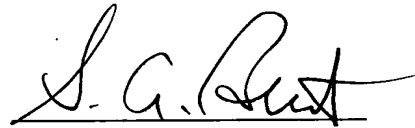
The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

July 22, 2002

Date:

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